

REMARKS

I. Introduction

Applicants would like to thank the Examiner for the indication of allowable subject matter being recited by claims 3 and 4. Accordingly, new claims 15 and 16 have been added and correspond to allowed claims 3 and 4, respectively.

Applicants respectfully submit that, as amended, claims 1, 2 and 5-11 are patentable over the cited prior art for the reasons that follow.

New claims 12-16 have been added. No new matter has been added.

II. The Rejection Of Claims 1 and 11 Under 35 U.S.C. § 102

Claims 1, 2 and 5-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No.5,155,716 (Imanaka et al.). Claims 1 and 11 are independent. Applicants respectfully traverse the pending rejection for the reasons set forth below.

Claims 1 and 11 both recite in pertinent part, "a status sampling section for selectively sampling the ***digital*** status reports" (emphasis added). Because the status sampling section selectively samples the digital status reports, the optical controller of the present invention can make it possible to reduce the burden on a system controller regarding the processing and analyzing of digital status reports. It is therefore possible

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that even when the rotational speed is increased, the burden on the system controller for processing **digital** status reports is not proportionally increased.

Turning to Imanaka et al., the alleged status sampling section 33-34 samples only an **analog** signal which is thereafter converted to a digital signal by A/D converter 35. Imanaka et al. is completely silent as to a status sampling section for selectively sampling **digital** status reports. Further, the optical disk controller of Imanaka et al. comprises a plurality of attenuators 21-24 and amplifiers 25-28, and the MPX 33 of Imanaka et al. chooses only one of the analog signals outputted by amplifiers 25-28 (see col. 5 lines 5-8). Accordingly, the burden on the system controller of the disclosed embodiment of Imanaka et al. is not reduced compared to the admitted prior art of Imanaka et al. shown in Fig.1 thereof.

As anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency (noting that "inherency may not be established by probabilities or possibilities," *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), for the foregoing reasons, it is submitted that Imanaka et al. does not anticipate claims 1 and 11, nor any claim dependent thereon.

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III. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable

Under Federal Circuit guidelines, a dependent claim is non-obvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. vs. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108(Fed. Cir. 1987). Accordingly, as claims 1 and 11 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also in condition for allowance. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

IV. New Claims 12-14

New claims 12-14 are submitted to be allowable for at least reasons similar to those discussed above with respect to claims 1 and 11 (e.g., digital status reports) and further because they contain features in a novel combination which are not believed to be disclosed or suggested by the prior art considered as a whole.

V. Request For Notice Of Allowance

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication for which is respectfully solicited.


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If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: February 24, 2004